IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4083 of 2007()

[CRIME NO.298/2007 OF KALAMASSERY POLICE STATION]

PETITIONER/ACCUSED

E.REGIKUMAR, AGED 51 YEARS, S/O.LATE
E.T.UTHUP, PROPRIETOR, SURIA LABS, IST FLOOR,
GAFOOR COMPLEX, DIWANS ROAD, ERNAKULAM, KOCHI-16,
RESIDING AT ERAKKATHIL HOUSE, CHETTY STREET,
KOTTAYAM.

BY ADV. SRI.M.K.DILEEPAN
SRI.DEEPAK T.NEDUNGADAN

RESPONDENTS: STATE

STATE OF KERALA,
REP. BY THE SUB INSPECTOR OF POLICE,
KALAMASSERY POLICE STATION, THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4083 of 2007

Dated this the 6th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations inter alia under Section 420 I.P.C. The crime was registered on the basis of a private complaint filed before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The crux of the allegations against the petitioner is that he as a partner fraudulently created documents to make it appear that an amount of Rs.2,00,000/- borrowed from a customer had been repaid to the customer, while in fact, such repayment was not made and the said lady staked a claim against the partnership firm for return of such amounts.

3. The learned counsel for the petitioner submits that the allegations are false. The petitioner had ceased to be a working partner with effect from June 2003 as per Annexure A. The petitioner is not responsible for the subsequent entries allegedly made in the books of accounts. The payment in dispute to the customer is alleged to have been made only in 2004. In any view of the matter, it is

evident that the continuing partners are only trying to vex and harass the petitioner by staking the said false and untenable claim against the petitioner, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation is at an early stage and the petitioner may not be permitted to arm himself with an order of anticipatory bail at this stage.

5. I have considered all the relevant inputs. I am satisfied that, in the facts and circumstances of this case, this is a fit case where directions under Section 438 Cr.P.C can be issued in favour of the petitioner, subject, of course, to appropriate conditions and safeguards to be imposed in the interests of a fair, efficient and expeditious investigation. I refrain from embarking on a detailed discussion on the acceptability of the allegations and the credibility of the data collected.

6. In the result, this petition is allowed. The following directions are issued under Section 438 Cr.P.C.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 13/07/2007.

ii) He shall be released on regular bail on condition that he executes bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 16/07/2007 and 17/07/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months. Subsequently the petitioner shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 13/07/2007, he shall be released on bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 13/07/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007